

MINUTES

Citizens' General Obligation Bond Oversight Committee

July 29, 2004

Room 416, City Hall

San Francisco, CA 94102

1) Call to Order and Roll Call

Chair Jue called the meeting to order at 9:39 AM. Roll call was taken and it was noted that a quorum was present.

2) Discussion and Possible Action to Approve Minutes

The minutes of the May 20, 2004 meeting were adopted without objection or public comment.

3) Presentation of the Recreation and Park Department Regarding their General Obligation Bond Funded Projects. Particularly the 2000 California Academy of Sciences Bonds and the 1995 Steinhart Aquarium Improvement Bonds.

Edgar Lopez, Project Manager with the Department of Public Works introduced the project team members present: John McCosker, Director of the Steinhart Aquarium; Harry O'Brien, Legal Counsel; Don Young, Project Manager; Chris Kibre, Project Financial Director; and Kyle Glenn representing the architectural partners.

Mr. Lopez gave an introduction on the status of the approved reconstruction of the facilities. The project is funded through private and public funds. Through meetings with project sponsors and various departments that are involved in the project a Memorandum of Understanding (MOU) has been developed regarding management and funding of the project. It has been reviewed and approved by the Recreation and Park Commission.

Mr. McCosker reported on the history of the facilities of the Academy of Sciences, the Academy facilities' current status and plans for the project improvements. He made reference to the Bond Accountability Report of April 7, 2004, stating that they continue to raise funds on behalf of the Academy reconstruction project. The Academy expects to raise all amounts required for the completion of the project.

Mr. Young gave a financial report stating the project received its final authorization by the Board of Supervisors (BOS) in September 2003, which included required approvals under CEQA and an ordinance that outlined how public and private dollars would be spent. There has been no follow up legal action in response to the BOS approval. He reviewed the Bond Accountability Report noting that \$116 million is to be financed through the two City GO bond authorizations. The remaining \$186 million will be raised privately. He discussed the schedule as it relates to the City bond sales scheduled for September of 2004 and February of 2005.

Ms. Kibre next reviewed the California Academy of Sciences Sources and Uses of Funds as of June 1, 2004 as shown in Exhibit 2. In response to an inquiry regarding realization rates from Ms. Jue, Ms. Kibre said this would be the largest capital campaign they have done in a while. The financial team has a high degree of confidence in receiving the pledged funds because the Academy has only been accepting donations from large donors, foundations, and trustees of the Academy.

Mr. Hentz expressed concerns about the security of the funds and the percentage they are going to receive from the federal and state government. In response to Mr. Hentz's comments regarding contingency plans, Ms. Kibre discussed Schedule 3 of their submission, showing the worst-case scenario. The planners have prioritized expenditures of the Academy so that with the funds already in hand they would be able to build the building as it is designed and build the aquarium. If the funds in hand turned out to be short, they would defer some of the plans until further funds came in.

In response to Mr. Micheau's inquiry to staff regarding outstanding issues as the bond sale approaches, Ms. Ribble said that she has been working with the Academy team for about a year now and over that time Mayor's Office of Public Finance (MOPF) staff has become comfortable with the Academy's financial plans. Mr. Harrington, the Controller, added that this is a very organized group and the questions the Committee has asked are similar to the questions the Controller's Office asked during the negotiation and drafting of the MOU. Mr. Harrington added that they have been very forthcoming with their information, and they have very good contingency plans.

Mr. Young responded to Ms. Jue's request for a report on construction costs and contingency stating that the \$302 million total new Academy capital cost includes almost \$40 million in private (non-GO bond) dollars earmarked for both contingency and escalation dollars. The project is reevaluated about every 6 months due to the escalating cost environment.

There was a general discussion regarding the contract with Webcor and why they were chosen. Mr. Young explained that they would be the general construction manager at risk. All of the funding of the general contractor is private and of the subs public. Mr. O'Brien added that when all subcontractors are in place there will be a single contract with Webcor with a guaranteed maximum price for the entire project.

Mr. Micheau asked for clarification on operations once the construction is finished and expressed concern about ongoing maintenance costs. Mr. O'Brien responded that there is a unique relationship between the City and the Academy; the City's charter provides that the Academy will have exclusive management and control of the facility in the park but the facility is owned by CCSF. Mr. O'Brien added that the Academy team has performed studies and forecasts to project the maintenance costs at the reconstructed facility and has factored these projections into the financial planning for the facility's operation.

There was no public comment.

4) Presentation from the Controller and Possible Action Regarding the Controller's Audit Plan.

Mr. Harrington provided an update of the Controller's Audit Plan. Mr. Harrington specifically described the audit plan for the school district and neighborhood parks bond programs. Mr. Harrington also pointed out that his office had not yet put a full audit plan in place. Once that is done, Mr. Harrington said, his office will be better able to assess whether it needs to add more staff and what other tasks it can add in terms of the workload.

There was no public comment.

5) Discussion and Possible Action Regarding Audits Requested by the Committee from the Controller's Office of the 1997 City College and School Bonds.

Mr. Harrington reported that he spoke with the attorney for the San Francisco Unified School District (SFUSD) Louise Renne and Superintendent Ackerman who were very concerned and are sending additional staff to look at the records related to bond spending at the School District. After previously asking for 1½ months to put the records together, SFUSD forwarded a note to the Committee's attention that stated that its records still do not reconcile according to the schedules they have given and that SFUSD has hired additional staff to assist in their cleanup efforts. The Controller's Office will have an entrance conference and will start its audit in the next two weeks.

The full audit will start in August and should take three months. The Controller's Office is of the opinion that the original spending of some of the money was done incorrectly and that there was a major review and reallocation of bond-related spending about a year and half ago. SFUSD's method has been to replace bond funds spent on non-bond-eligible items with other funds that are more legally flexible in their use, and Mr. Harrington observed that it is going to be somewhat difficult to go back and see what was originally spent, what was replaced and where we are today. The Controller's Office does plan on answering the questions that have been asked by the Committee and has been in contact with Mr. Yockey as was suggested at the time of Mr. Yockey's motion on this topic.

In response to Mr. Hentz's question as to whether the Committee members can sit in on the audits legally or be in violation of the Sunshine Ordinance, Mr. Martin said it would not violate the Sunshine Ordinance and can be done. The Controller responded that there are stages where the audit team meets with representatives from the department and that those meetings might provide an opportunity for committee members to update themselves on the process. The Controller reiterated his openness to some involvement of the Committee (or individual members) in the audit process. The Committee may be able to review the results of the audit by the end of this year.

There was no public comment.

6) Discussion and Possible Action Regarding Staff Reports and Correspondence to and from Administering Departments Relating to the Status of Remaining Bond Proceeds.

Ms. Ribble from the Mayor's Office of Public Finance reported on the Asian Art Museum Project and the City Hall Project. Ms. Ribble reported that the remaining unencumbered money on the Asian Art Museum project represents interest earnings on their bond proceeds, and as such the Mayor's and Controller's offices need to work with the Asian Art Museum representatives to select bond-eligible projects to be paid for with these monies. Ms. Ribble also reported that some of the amounts remaining in the City Hall Improvement bonds are earmarked for projects on City Hall but they do not show as being encumbered because the work is being done by the Department of Public Works (as opposed to an outside contractor). Mr. Harrington thought in both cases it would be worthwhile to send a formal letter requesting a formal response so that the Committee will receive plans that are in writing and that will be public. He offered to assist with that.

Mr. Hentz expressed concern about the 1986 Fire Protection Systems Improvement Bonds. He felt the response the Committee received was not adequate, and he hoped that this would be a continuing outstanding item. He suggested that they should have a plan on what they are going to use the funds for because there have been many changes in SFFD since 1986. Mr. Harrington thought the funds were put into the current budget to fund projects.

There was no public comment.

7) Discussion and Possible Action Regarding Changes to the Committee Workplan as a Result of the New Audit Review Board Duties.

Based on a previous item, it was determined that it would be premature to discuss this item.

There was no public comment.

8) Discussion with the Deputy City Attorney and Possible Action on Revising Committee Bylaws.

Mr. Michael Martin, Deputy City Attorney, said as discussed at previous meetings the revisions to the Bylaws are to incorporate the new Audit Review Board duties as well as the items that have come up as the Statement of Incompatible Activities has been drafted by the Committee.

The changes in the Bylaws are:

- 1. Article III, Section IV, Cancellation of Meetings:** It was decided to simplify and clarify the process of rescheduling a regular meeting.

2. **Article III, Section XII, Absences:** This change mirrors the changes that were made to the Statement of Incompatible Activities regarding absences. It allows the Chair to retain discretion to describe an absence as excused or unexcused. In addition the Committee may act by majority vote to direct a letter to the appointing authority and could describe the absence situation in that letter.
3. **Article VII, Section III, Review of Audits:** The sentence was changed to read "...the Committee shall review *each* such audit report to ensure that it meets...."
4. **Article III, Section X, Public Comment:** Was changed to reflect that under the Committee's new Audit Review Board duties there may be confidential items that are addressed in closed session where there would not be public comments.

Without objection, the Committee adopted the bylaws with amendments as set forth above.

There was no public comment.

9) **Discussion with the Deputy City Attorney and possible Action on Revising Proposition E Ethics Reforms.**

Mr. Martin stated that the latest set of revisions to the Statement of Incompatible Activities include a change in Section I General, which reflects the comments made by the Chair at the last meeting. The duty of the member with a potential conflict having performed services resulting in the direct receipt of general obligation bonds proceeds is to inform the Committee of such activity and seek the advice of the City Attorney's office. The member may at that point recuse his or herself from the discussion. The member must also inform the rest of the Committee of his or her potential conflict so the Committee in its discretion may act by majority vote to direct that member to recuse him or herself from discussion of that bond program.

The following changes were made:

1. **Section I, General, Paragraph 2:** The first sentence was revised to say "If any Committee member *knowingly* engages..." The last sentence of that paragraph was deleted.
2. **Section IV:** The first three words of the second sentence were changed to "Member" and the word "directly" was added.
3. **Section V:** Describes that the Chair has discretion to deem an absence unexcused. Once that reaches a level of more than two unexcused absences or more than 3 absences overall then the Committee may take disciplinary action including forwarding a letter to the appointing authority.

Mr. Martin reviewed one related item from the Conflict of Interest Code and the Statement of Incompatible Activities that has to do with the Committees' filing of the Form 700 Statement of Economic Interest. The Political Reform Act requires that every local government agency review its Conflict of Interest Code every two years to determine if it is accurate or if it needs amending. The Committee decided to retain their disclosure at the highest level and that no amendments are necessary.

The Statement of Incompatible Activities was approved unanimously with adoption of all above amendments. Mr. Martin will file the Statement with the changes as approved.

There was no public comment.

10) Discussion and Possible Action Regarding Agenda Items for Future Meetings.

Ms. Jue presented a list of 3 categories of bonds: 1) bonds issued over 10 years ago which are not closed, 2) bonds that were not presented in 2004, and 3) bonds that were presented in 2004. The Committee and Staff decided to take the following action:

1. Staff to send letters to the departments with bonds issued over 10 years ago asking for a specific response.
2. Presentations on the 1992 Seismic Safety bonds, the 1989 and 1990 Public Safety bonds and the 1992 Fire Safety bonds for the October meeting.
3. Schedule a special meeting in November or early December for Recreation and Park and the San Francisco Unified School District and discuss the Committee's Annual Report. Staff to find a date for the special meeting.
4. Staff to prepare a letter to the Mayor regarding filling the vacancies on the Committee.
5. Staff to give a Whistleblower Hotline report.

In response to Mr. Yockey's inquiry about the Whistleblower hotline, Controller Harrington reported that the hotline is to open Monday, August 2. All City Employees received notice with their paychecks. The Controller's Office will know the kinds of complaints or level of effort in a month or so. Before each agenda goes out the Controller's Office can work with the Committee and the City Attorney regarding the confidentiality of each item.

There was no public comment.

11) General Public Comment

None

12) Adjournment

The meeting was adjourned at 11:58 A.M.